

**MILLSTONE TOWNSHIP
PLANNING BOARD
MEETING MNUTES
JANUARY 9, 2013**

At 7:31p.m., Chris Pepe called the meeting to Order.

The Secretary read the Adequate Notice.

Salute to the Flag.

Attorney Steib swore in Re-appointed Members as follows: Mayor Nancy Grbelja, Committeeman Fiore Masci, and Ed Kocur, Alternate II.

Roll Call: Present: Beck, Pinney, Grbelja, Kocur, Pepe, Pado, Kurzman, Blanco, Masci.
Absent: Newman.

Vice-Chairman Pepe presented Board Members Beck, Kurzman and Mayor Grbelja with an award of recognition for their perfect attendance for 2012. Mr. Beck received an award in 2010 and 2011 as well.

Election of Officers:

Chairman - Nominations for the Chairman were open. Mr. Pepe made a Motion to nominate Mr. Newman as the Chairman and Mayor Grbelja offered a Second. Seeing no other nominations for Chairman, by unanimous vote, the nominations for Chairman were closed. Roll Call Vote: Pepe, Grbelja, Masci, Pado, Pinney, Blanco, Beck, Kurzman and Kocur voted yes to nominate Mr. Newman.

Vice-Chairman - Nominations for Vice-Chairman were open. Ms. Pinney made a Motion to nominate Mr. Pepe as the Vice-Chairman and Mr. Pado offered a Second. Seeing no other nominations for Vice-Chairman, by unanimous vote, the nominations for Vice-Chairman were closed. Roll Call Vote: Pinney, Pado, Grbelja, Kurzman, Blanco, Beck, Masci, Pepe and Kocur voted yes to the nomination of Mr. Pepe.

Mr. Pepe thanked the Board.

Board Secretary - Nominations for Secretary were open. Vice-Chairman Pepe made a Motion to nominate Pam D'Andrea as Secretary and Mr. Blanco offered a Second. Seeing no other nominations for Secretary, by unanimous vote, the nominations for Secretary were closed. Roll Call Vote: Pepe, Blanco, Pinney, Masci, Pado, Beck, Grbelja, Kurzman and Kocur voted yes to the nomination.

Ms. D'Andrea thanked the Board.

The Board next considered nominations for its professionals. The Board has a fair and open bidding process.

Board Attorney - Mayor Grbelja made a Motion to nominate Michael B. Steib as Board Attorney and Vice-Chairman Pepe offered a Second. Seeing no other nominations for Board Attorney by unanimous vote, the nominations for Attorney were closed. Roll Call Vote: Grbelja, Pepe, Pado, Pinney, Beck, Blanco, Masci, Kurzman and Kocur voted yes to nominate Attorney Steib of Michael B. Steib, P.A.

Mr. Steib thanked the Board.

Board Engineer - Mayor Grbelja made a Motion to nominate the Engineering firm of Leon S. Avakian, Inc. with Matt Shafai as the principal engineer for the Board Engineer and Vice-Chairman Pepe offered a Second. Seeing no other nominations for Board Engineer, by unanimous vote, the nominations for Board Engineer were closed. Roll Call Vote: Grbelja, Pepe, Blanco, Masci, Pinney, Pado, Beck, Kurzman and Kocur voted yes to the nomination.

Board Planner - Vice-Chairman Pepe made a Motion to nominate the firm of Coppola and Coppola with Richard T. Coppola as the primary Planner to the Board and Committeeman Masci offered a Second. Seeing no other nominations for Board Planner, the nominations for Board Planner were closed. Roll Call Vote: Pepe, Masci, Blanco, Pinney, Pado, Beck, Grbelja, Kurzman and Kocur voted yes to the nomination.

Court Reporter – Mayor Grbelja made a Motion to nominate Angela Buonantuono as the Board Court Reporter and Vice-Chairman Pepe offered a Second. There were no other nominations for Board Court Reporter. Roll Call Vote: Grbelja, Pepe, Beck, Kurzman, Grbelja, Pinney and Kocur voted yes to the nomination.

Official Newspapers - Mr. Blanco made a Motion to nominate the Asbury Park Press and The Messenger Press as the official Board Newspapers and Mr. Pado offered a Second. Seeing no other nominations for official newspaper designations, by unanimous vote, the nominations were closed. Roll Call Vote: Blanco, Pado, Masci, Pepe, Pinney, Grbelja, Kurzman, Beck and Kocur voted yes to the nominations.

Regular Monthly Meeting Schedule - The Board having reviewed the proposed monthly meeting schedule, Ms. Pinney made a Motion to adopt the regular monthly meeting schedule and Committeeman Masci offered a second. The dates were read into the record. Roll Call Vote: Pinney, Masci, Pepe, Grbelja, Kurzman, Pado, Blanco, Beck and Kocur voted yes to adopt that Regular Monthly Meeting Schedule to be held on the following dates in 2013 and the first meeting date in 2014 beginning at 7:30 p.m. in the Municipal Meeting Room located at 215 Millstone Road, Millstone Township, New Jersey as follows:

January 9, 2013
February 13, 2013

August 14, 2013
September 11, 2013

March 13, 2013
April 10, 2013
May 8, 2013
June 12, 2013
July 10, 2013

October 9, 2013
November 13, 2013
December 11, 2013
January 15, 2014

APPROVAL OF MINUTES: The Board having reviewed the Minutes of December 6, 2012. Only eligible members voting on the meeting minutes. Mayor Grbelja made a Motion to approve the minutes and Ms. Pinney offered a Second. Roll Call Vote: Grbelja, Pinney, Blanco, Beck, Kurzman, Pado and Kocur voted yes to adopt.

PUBLIC COMMENT PORTION: Vice-Chairman Pepe opened the meeting to the public for any comments or question they may have at 7:40 p.m. Seeing none, he closed that portion of the meeting at 7:40.

EXTENSIONS OF TIME:

P12-07 BENTON FIBRE AND DRUM – Block 16, Lot 9.12 – Located on Rike Drive in the Moto Industrial Park in the BP Zone. The Lot consists of 10.04 Acres of property. The applicant received Preliminary and Final Major Site Plan approval to construct an additional one-story 8,435 s.f. building for office space memorialized in Resolution dated July 9, 2008. Applicant seeks his fourth one-year extension of time. Zone has not changed. Applicant seeks an additional Extension of Time pursuant to 40:55D-70. Jurisdiction accepted at 12-6-12 Meeting. Application carried from 12-6-12 Meeting. No Further Noticing Required

Mr. Pado recused himself from hearing the application.

The Board accepted jurisdiction over the application at the December 9, 2012 Planning Board Meeting. Mr. Kenneth Pape representing the applicant. He advised that the applicant came to Board to build the flagship building in front of the Business Park. Mr. Pape advised that the applicant is seeking his third one-year extension due to the economic difficulties of the times. Mr. Pape explained the difficulty in the change in banking and economy. There has been no zone change. Mr. Rike seeks to extend his period of protection.

Mr. Blanco made a Motion to grant the one-year extension and Mr. Masci offered a second. Roll call Vote: Blanco, Masci, Grbelja, Kurzman, Pinney, Beck, Pepe and Kocur voted yes to the extension.

P12-08 PERL ACRES SOUTH – Block 55, Lot 2, - Located on Route 526. Previously Zoned R-130 consisting of 158.2 acres. Applicant received Preliminary Major Subdivision approval for a 43-residential lot subdivision and 2 lots for Township dedication received 6-25-03. Final Approval granted Resolution Memorialized 4-11-07.

Applicant is seeking the fifth one year extension of time running thought 4-11-13. Zone is presently RU-P. Applicant seeks an additional Extension of Time pursuant to 40:55D-70. Jurisdiction accepted at 12-6-12 Meeting. Application carried from 12-6-12 Meeting. No Further Noticing Required.

Mr. Pape provided an overview of the property and the project that the Board had approved. The property consists of 158 acres of farmland situated on County Route 526. In 2003< the Planning Board approved the creation of 43 residential lots. Mr. Pape explained that the Perlman family has transferred into a preservation program. During last summer, a preservation offer was on the table to preserve the land. Not all family members were on the same page at that time. Mr. Pape explained that now, the family met and they all agree to preserve.

Mr. Pape was asking the Board to allow an extension for fifth and final one-year extension so that they can actively work with the Township for preservation of the property.

Mayor Grbelja provided an overview of both the Perl Acres North and South properties. As to the North property she advised that it took three years to preserve the North property and to work out the preservation approval between SADC and Green Acres. She advised on that property across the street, SADC did not want Green Acres trails adjacent to farmland preservation. Mayor Grbelja explained that she and the Open Space & Farmland Preservation Chairperson, Ms. Pat Butch, went to Trenton on several occasions to make that project happen.

On the South property, Mayor Grbelja advised that she and Ms. Butch were able to sit down with Green Acres and had funding of the preservation at that time. Mayor Grbelja stated that she was able to find a contract purchaser to take the property so that the Perlmans did not have to go through the expense of taking the houses down. Mayor Grbelja advised that the Perlman family did not want to preserve without retaining the minerals rights. The proposal that was on the table has subsequently gone away.

Committeeman Masci advised the Board that there are no funds available for the Township to preserve.

Mayor Grbelja reported that the State is trying to order the appraisal of the property in order to make the Perlmans an offer.

Mr. Pape stated that this is the reason why the securing the extension is most important because the appraised value is based on buildings lots.

Mr. Pape advised that in late December a prompt meeting took place to discuss preservation. Mayor Grbelja advised that the Township had a meeting and the Township Committee does not have the funding so Ms. Butch turned it over to Green Acres to get this moving whether we are a partner or not.

The concern is that the Perlman's make the commitment to preserve. Mr. Pape explained that at the end of January, there is a meeting with Green Acres. He does not feel that the appraisals will be in by that time in order for Green Acres to make an offer

Mayor Grbelja provided information as to the steps to preserve. NJDEP Green Acres will order appraisals and usually the offer is the ballpark of those appraisals.

Farmland with no approvals is appraised low. The farmland with approvals is based on approved lots and that is better.

Mr. Blanco asked if information pertinent to the Board to grant an extension is not going to be available to the Board in February, why not carry the extension application until the March Meeting. Ms. Pinney asked what would be the negative aspect if the Meeting were carried to March instead of February.

Mr. Pape advised that if there are approvals in place when the appraisals are being prepared, the appraiser picks this information up and the property will be appraised substantially less. Mr. Pape respectfully requested that the Board allow them to return in February so that he can advise where they are at.

Mr. Blanco felt that all of this should have taken place several months ago. Mr. Pape advised that it took a lot of internal discussions to be here.

Committee Masci said we have the opportunity to vote to carry to February or to March. When appraisals come in we don't know if the appraisals will be acceptable.

The Board discussed how do we help this family get there appraisals by April 14th. Mayor Grbelja reported that the State is aware of the April deadline. She advised Green Acres is very interested in the property due to its proximity to other preserved land.

Mayor Grbelja stated that we knew a deadline was coming and unfortunately did have a viable deal that was rejected. It was a problem with the Open Space and Farmland Preservation Commission and the Planning Board because we did grant extensions waiting for the money and when everything was in place we were rejected.

We are at the 11th hour approaching this April date and we are being pushed to say well either we have to get funding from Green Acres at this point and hope it is done.

That urgency and emergency has not been created by the Township because at that time the Township was a viable partner looking to actively preserve it. There is no guarantee to us that if we grant an approval and the appraisals come back with figures and they are not numbers that the applicant does not like then we will have an extension to develop that people don't want because we like to preserve property.

Mayor Grbelja is glad Green Acres is stepping up.

Vice Chairman Pepe stated that we would like to see both parties win and we all have a common goal. The client would like to see it preserved. We are short on time and how do we close the Gap. Pat Butch would be that person but she is now out of the project. Mayor Grbelja advised that Renee Jones of Green Acres is aware of the entire situation and she is working very hard to find the funds for this project.

Attorney Steib advised that the extension portion of the Statute does speak about granting a one year extension but under this particular provision, Mr. Steib advised that the Board does have latitude to grant an extension befitting the circumstances and he read from the Statute.

Mr. Blanco stated that if that is the case we can wait until the April meeting and see how far along the applicant has gotten and if it is heading in the right direction then the Board could grant the extension to the amount of time the client needs to close the deal.

Vice-Chairman offered that the project that had been approved is no longer what the town wants and the Township has gone through great lengths to not have that anymore. We would like to see this land preserved. Why not go to April.

Mr. Pape explained that if he has to go to April he has to start perfecting the subdivision now. In February, we can have further discussion. He knows how important it is to demonstrate what the Perlman's intentions are and in February he can report back to the Board after meeting with Green Acres.

Mr. Pape can come back and share any information that he has working with Green Acres. He has to protect his clients too. If April comes and goes without the Board granting them an extension, then his clients have lost everything.

The Board discussed how to work this out to benefit all. Mayor Grbelja does not know if they have already put out for the appraisals and she advises of her conversation with them.

Mayor Grbelja advised that when she spoke to Green Acres, they were going out for appraisals. This hardship is not created by the Township. Now there is no guarantee to us that if we grant an extension and the appraisals are not at a number that the

applicants like, then we have extending this approval for them to develop. She feels that we have gone beyond that point and she does not want both parties to lose. Green Acres has stepped up to preserve this piece of property. Renee Jones of Green Acres is aware of this situation and she is working diligently to find the preservation funds.

Committeeman Masci asked everyone to acknowledge that a deadline is approaching. This deadline approaching has put this in the path of the Planning Board to make this happen. In April the value is significantly different that it is today. He just asked that everyone be candid about this. Mr. Pape advised that presently all of the family is on Board with the preservation.

Vice-Chairman Pepe Made a Motion to allow Mr. Pape to come back in February to present to the Board the most substantive and accurate information to help the Board. Mr. Pepe explained that the does not like to grant extensions time. The Board does respect the Perlmans, and does want the preservation. Mayor Grbelja offered a second.

Mr. Blanco feels we will not get much information in February and felt the Board should carry the application to March when more information may be available. He would like to see this put into preservation because he feels this is a great piece of property. Manny feels that in March the applicant will have more information.

Ms. Pinney asked Mr. Pape given the fact that we do not have to abide by a one year extension, what a reasonable time frame would be. Mr. Pape wishes to wait until he meets with Renee Jones and in February he will come back to the Board to update the Board.

Mr. Blanco is concerned that the applicant is asking the Board to make a quick decision when it was the applicant that placed us in the situation.

Mr. Kocur feels that February is a more reasonable time frame so that the family can prepare for alternative measures due to the April deadline. Mr. Kurzman concurred. He would rather see farmland preserved at three acres then homes at ten acres. Mr. Pepe concurred. Committeeman Masci felt it would be fine for Mr. Pape to come back in February and advise where he is with Green Acres and funding for this project. Mayor Grbelja feels February is fair to all parties. Mr. Pado agreed. The Board agreed that they would not have to make a decision in February.

Vice-Chairman Pepe advised that we would all like to see this preserved in farmland preservation and see the land preserved.

After discussing, Mr. Pepe on the Motion to have the applicant report back to the Board on February 13, 2013 and Mayor Grbelja offered a second. Roll Call Vote: Pepe, Grbelja, Kurzman, Kocur, Pinney, Pado, Masci and Beck vote yes. Mr. Blanco voted no.

Attorney Steib made the announcement to the public that the applicant will return at the February 13, 2013 Meeting without the need for any further noticing.

P13-01-MILLSTONE COMMONS WEST (Bridar West) – Block 17, Lot 8.04. Located on Route 33 consisting of 3.00 acres in the HC zone. Applicant seeks Preliminary Major Site Plan approval to construct two (2) one-story retail/office buildings; the main building consisting of 13,560 s.f. and the second building consisting of 2,400 s.f. Approval granted and Resolution memorialized on 11-23-09. Applicant seeks first one-year Extension of time. No Zone Change. No noticing required.

Mr. Kenneth Pape representing the applicant advised the Board that the proofs for both applications are identical for the two commercial buildings located on Highway 33. He advised that they are consistent with the zoning and the zone has not changed. This is the applicant's first extension request.

Mr. Pape provided that the NFA Letter has been received. Bonds have been posted and a lot of money has been expended. The property has been actively and professionally marketed. Mr. Pape advised that the Route 33 corridor is expanding. They feel comfortable asking the Board to grant the first one year extension of time.

The Board having considered the application, Vice-Chairman Pepe made a Motion to grant the one-year extension, Mr. Pado offered a Second. Roll Call Vote: Pepe, Pado, Masci, Kurzman, Grbelja, Blanco, Pinney, Beck and Kocur voted yes to the extension.

P13-02-MILLSTONE COMMONS EAST (Bridar East) – Block 17, Lot 8.05. Located on Route 33 consisting of 3.39 acres in the HC zone. Applicant received Preliminary Major Site Plan approval to construct two (2) one-story retail/office buildings; the main building consisting of 13,200 s.f. and the second building consisting of 2,400 s.f. Approval granted and Resolution memorialized on 11-23-09. Applicant seeks first one-year Extension of time. No Zone Change. No noticing required.

Mr. Kenneth Pape representing the applicant reiterated the same information and conditions apply to the one-year extension request for Millstone Commons East as they did for the Millstone Commons West.

The Board having considered the application, Vice-Chairman Pepe made a Motion to grant the one-year extension, Mr. Pado offered a Second. Roll Call Vote: Pepe, Pado, Masci, Kurzman, Grbelja, Blanco, Pinney, Beck and Kocur voted yes to the extension.

Having no Old Business or New Business on the Agenda, Mr. Blanco made a Motion to adjourn and Ms. Pinney offered a Second.

A resident of the Township asked if they could address the Board. The Board advised that the Public Portion of the Meeting is over. Vice -Chairman Pepe advised that the Public Portion was at the beginning of the Meeting and offered that they could return February 13th at 7:30 p.m.

The residents advised that they have been trying since September to find information concerning procedures. Attorney Steib advised that the public comment portion is always in the beginning of meeting. Vice-Chairman Pepe asked the residents what their concern was.

Residents Rhonda and Kevin Anderson of 4 Stoney Brook Drive stated that they were trying to find out what the procedures were on several issues regarding non-conformance with the zoning ordinance.

Attorney Steib asked Ms. Anderson to define issues. Ms. Anderson stated non-conforming issues concerning structures, steep slopes and more.

Planning Board Attorney Steib advised that the Board is not an enforcement agency. Attorney Steib explained that if there is a violation of the zoning ordinances the enforcement would be the enforcement official of the town. Ms. Anderson asked if that is not happening what is the procedure. Attorney Steib advised that if the enforcement official is not following the protocol then she would have the ability to put a proceeding in lieu of prerogative writ in the Superior Court in Monmouth County in Freehold to compel action be taken.

Committeeman Masci provided a bit of history reporting that the Township Committee has been advised by their legal professionals that they do not concur with the Andersons and the Andersons would have to hire an attorney.

Attorney Steib clarified that the Board has jurisdiction to hear applications for subdivisions and site plans, to promulgate a Master Plan and to revise the Master Plan and that is their limited jurisdiction.

Attorney Steib advised that once an application leaves the Board, the Board does not have the authority or enforcing powers over it. He explained that is the authority of the enforcing agency.

Ms. Anderson said she is looking for guidance. Board Attorney Steib said the Township Committee has suggested that she get guidance from private counsel. Ms. Anderson advised they are trying to circumvent that. Attorney Steib advised that this is not the place to circumvent it.

Seeing no further business, the Board already having entertained a Motion to Adjourn by Mr. Blanco which was offered a Second by Ms. Pinney, by unanimous vote the meeting adjourned at 8:40 p.m.

Respectfully submitted,

Pamela D'Andrea